IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.9356 of 2004

Rashtrapal Boudh & anr. Petitioners
Vs.
The Deputy Registrar of
Co-operative Societies,
Vasai, Dist.Thane & ors. Respondents

Mr.D.S.Sapkale for petitioners.

Mr.M.R.Phal and Ms.Sunita Sonawane for Resp. No.4, 5 and 7 to 13.

Ms.V.Mhaispurkar, AGP for Resp.Nos.1 to 3.

CORAM: B.H.MARLAPALLE,J.

July 13, 2006.

P.C.

. Heard the learned counsel for the petitioners who are erstwhile members of the managing committee of the Hill Park Co-operative Housing Society Ltd, Jivadani Road, Virar (East), Dist. Thane. They are aggrieved by the communication dated 20/12/2003 issued by the Deputy Registrar, Co-operative Societies, Vasai calling upon them to hand over the record of the Society to the newly constituted managing committee.

. There is no doubt that the elections of the managing committee were held on 30th November 2003 and the communication dated 20/12/2003 states that

pursuant to the said elections, the new managing committee was constituted on 4/12/2003 and it gave a letter on 5/12/2003 to the earlier Chairman / Secretary to hand over the record. As there was no response, the Deputy Registrar was approached and he intervened. The communication dated 20/12/2003 was challenged in Revision Application No.95 of 2003 and the Divisional Joint Registrar was pleased to dismiss the said revision by order dated 17/8/2004.

. In the revision proceedings it was contended that though the elections were held on 30/11/2003 said elections were under challenge before the Co-operative Court and, therefore, the record was not handed over.

. The learned counsel for the petitioner now states that the managing committee was not constituted as per Section 73 of the Maharashtra Co-operative Societies Act, 1960 as well as the bye-laws of the Society and he referred in support of these arguments to the decision of this Court in the case of Pandurang Hindurao Patil vs. State of Maharashtra **[1983 Mh.L.J. 1081].**

. Whether the elections were held legally so as to constitute the managing committee under Section 73 of the Act are the issues pending in the election petition but that does not mean that the newly constituted managing committee has no authority in law to take over the reins of the Co-operative Society. It is apparent that the petitioners are finding some excuses to retain the record of the Co-operative Society. The challenge to the impugned order is devoid of merits.

. The petition is hereby rejected summarily and if the petitioners do not hand over the record to the newly constituted committee within a period of two weeks from today, they may sustain disqualification from contesting the elections of the Society at any time in future.

(B.H.MARLAPALLE,J.)